IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2555 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
AND
HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GAJRABEN BHARATBHAI WD/O DECD.BHARATBHAI GOLANBHAI & 2 - Appellant(s)
Versus
TANKER NUMBER GTP 7629 MBP & 1 - Defendant(s)

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Appearance :

MR MB PARIKH for Appellant(s) : 1 - 3.
NOTICE SERVED for Defendant(s) : 1,
SERVED BY RPAD - (N) for Defendant(s) : 1,
MR RAJNI H MEHTA for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/02/2007
ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE M.S.SHAH)

This appeal is filed by the widow and minor children of the deceased for enhancement of the compensation awarded vide judgment and award dated 4.11.2000 of the Motor Accident Claims Tribunal, Amreli in MAC Petition No. 172 of 1997.

2. The claim petition was filed for compensation on account of death of Bharatbhai Golanbhai who died in a motor vehicle accident on 9.11.1996 at the age of 31 years. The Tribunal assessed the income of the deceased at Rs.2,100/- per month and after deducting one-third amount towards the personal expenses of the deceased, assessed the dependency benefit at Rs.1,400/- per month. The Tribunal then computed the compensation for loss of dependency benefit by applying the multiplier of 15 i.e. Rs.1400 x 12 x 15 = Rs.2,52,000/- and further awarded Rs.10,000/- for loss of expectation of life and Rs.3,000/- for funeral expenses. In all, the Tribunal awarded Rs.2,65,000/- with interest at the rate of 12% per annum from the date of claim petition till realization.

3. While issuing notice for final disposal, this Court had recorded the grievance made by Mr Parikh for the appellants that the deceased was aged 31 years at the time of accident and that as per the Second Schedule to the Motor Vehicles Act, the multiplier applicable would be 17 years, whereas the Tribunal applied the multiplier of only 15.

4. Having heard Mr Parikh for the appellants and Mr Rajni H Mehta for respondent No.2 – Insurance Company, we find that in the facts and circumstances of the case the multiplier of 17 years is required to be adopted. The result would be that the compensation for loss of dependency benefit would be Rs.1,400 x 12 x 17 = Rs.2,85,600/-. Adding thereto, Rs.25,000/- for loss of expectation of life, Rs.15,000/- for loss of consortium and Rs.5,000/- for funeral expenses, the total amount of comepnsation would be Rs.3,30,600/-.

5. In view of the above discussion, the award dated 4.11.2000 of the Motor Accident Claims Tribunal, Kachchh-Bhuj in MAC Petition No. 172 of 1997 is modified and the amount of compensation is raised from Rs.2,65,000/- to Rs.3,30,600/-. We, however, make it clear that the additional compensation of Rs.65,600/- shall be paid with proportionate costs and interest at the rate of 9% per annum from the date of the claim petition till the date of deposit. The additional amount with proportionate costs and interest shall be deposited by respondent No.2 – Insurance Company with the Tribunal by 31st March, 2007.

6. The appeal is allowed in the aforesaid terms.

[M.S. SHAH, J.] [AKIL KURESHI, J.]

sundar/-